IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.721 OF 2004
IN
SUIT NO.5457 OF 1998

Armour Polymers Ltd. ..Plaintiffs

Vs.

Chemech Laboratories Ltd. ..Defendants

Ms.Vandana D.Jaysingh for the plaintiffs

Mr.R.D.Soni i/b Ram and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD OCTOBER, 2005

P.C.:

1. There is a serious dispute as to the fact that whether suit claim is within time. Invoice are of 1994. Suit is filed on 13.10.98. However, the learned counsel for the plaintiffs contended that there is a part payment as mentioned in letter dt.23.04.97 at Ex.D to the plaint which is payment of 30,000 on 20.6.96.

2. However, from the perusal of the plaint, it does not indicate any part payment is adjusted against amount claimed under Item No.2 and 3 of two invoices. Apart therefrom suit is of 1998.

Summons for Judgement has been taken out in 2004. There is a gross delay. There is no explanation for such gross delay except the fact that earlier advocate did not take action, I find explanation furnished have no merits. In that view of the matter, Summons for Judgment is dismissed accordingly. Unconditional leave to defend is granted. Suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.